



BILLING CODE 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC-2022-0015]

Petitions Requesting Rulemaking to Amend the Safety Standard for Play Yards to Require a Minimum Thickness for Play Yard Mattresses, and to Standardize the Size of Play Yards and Play Yard Mattresses; Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of petitions for rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) received two petitions regarding play yards and play yard mattresses. The Commission invites written comments concerning these petitions.

DATES: Submit comments by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by Docket No. CPSC-2022-0015, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (e-mail), except through <https://www.regulations.gov>. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. Alternatively, as a temporary option during the COVID-19 pandemic, you can email such submissions to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2022–0015, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alberta E. Mills, Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301-504-7479 (office) and 240-863-8938 (work cell); cpsc-os@cpsc.gov.

SUPPLEMENTARY INFORMATION: On November 29, 2021, Carol Pollack-Nelson, Ph.D. of Independent Safety Consulting, LLC, Sarah B. Newens, M.S. of Safety and Systems Solutions, M.S., and Alan H. Schoem, Esq. (collectively “Petitioners”) submitted two documents to the Commission through the Division of the Secretariat,

titled: (1) Petition to Require Minimum Thickness for Play Yard Mattresses (“Mattress Thickness Petition”), and (2) Petition to Standardize the Size of Play Yards and Play Yard Mattresses (“Play Yard Size Petition”) (collectively “petitions”).¹ The petitions seek a rulemaking to amend the Commission’s regulation, Safety Standard for Play Yards, 16 CFR part 1221, to address the hazard of infants becoming entrapped between the edge of a play yard and the play yard mattress and suffocating (“gap entrapment hazard”). CSPC docketed the Mattress Thickness Petition as petition CP 22-1 and docketed the Play Yard Size Petition as CP 22-2.

The Mattress Thickness Petition states that to reduce consumer perception that a play yard floor is too hard, and the notion that soft bedding should be added for the comfort of an infant, the Commission should require a minimum play yard mattress thickness of 1.5 inches with a minimal tolerance allowed. Additionally, Petitioners seek a maximum 0.5-inch gap requirement between a play yard mattress and the mesh side of the play yard wall, and to allow a maximum play yard mattress thickness of 3 inches.

The Play Yard Size Petition seeks to “mitigate the risk posed by an undersized mattress in a play yard” by standardizing the size of play yards and play yard mattresses “to one size for each given perimeter shape,” meaning “one size for square play yards, one size for rectangular play yards, one size for oval play yards and one size for round play yards.” Petitioners assert that this change also would reduce hazardous gaps between play yard mattresses and play yard walls.

By this notice, the Commission seeks comments concerning the two petitions. In particular, the Commission seeks comments on the following:

¹ On May 3, 2022, the Commission voted 3-1 to publish this Notice of Petitions for Rulemaking in the *Federal Register*.

- The Commission considered the gap-entrapment hazard in granting petition CP 15-2, Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards with Non-Rigid Sides, in establishing a Safety Standard for Crib Mattresses, and in continuing to work on play yard mattress requirements with the ASTM F15.18 Subcommittee on Play Yards and Non-Full-Size Cribs. What effect would these new petitions have on the Commission's work on this issue?
- Are any of the issues raised in the Mattress Thickness Petition supported, mooted, or rendered superfluous by the continuing work on the gap-entrapment hazard in the ASTM F15.18 Subcommittee on Play Yards and Non-Full-Size Cribs?
- The Commission, by statute, will consider any revised ASTM voluntary standard for play yards if ASTM notifies the Commission of a revised standard. 15 U.S.C. 2056a(b)(4). Based on the new petitions, should the Commission commit additional resources to the gap-entrapment issue, beyond staff's current work on mattress fit and thickness with the ASTM F15.18 Subcommittee on Play Yards and Non-Full-Size Cribs? Why or why not?
- The Commission's rules are typically stated in terms of performance requirements, and/or requirements for labeling and instructions. *See, e.g.*, 15 U.S.C. 2056(a). Is the proposal in the Play Yard Size Petition to limit the sizes of play yards and play yard mattresses consistent with this practice? If not, is the departure justified?
- Can the safety objective identified in the Play Yard Size Petition, *i.e.*, assisting consumers to purchase play yard mattresses that properly fit into a play yard, be addressed by a performance requirement different from that proposed in the Play

Yard Size Petition? If so, are there reasons to favor or disfavor the requirement proposed in the Play Yard Size Petition? Does the existing requirement for play yard mattresses in the Safety Standard for Play Yards adequately address this hazard?

The petitions are available at: <http://www.regulations.gov>, under Docket No. CPSC-2022-0015, Supporting and Related Materials. Alternatively, interested parties may obtain a copy of the petitions by writing or calling the Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479 or 240-863-8938; cpsc-os@cpsc.gov.

Brenda Rouse,

Acting Secretary,

Consumer Product Safety Commission.

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